



STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	
	:	
DIEGO ALEXANDER DAVIS, RN	:	ADMINISTRATIVE ACTION
License No. 26NR10068600	:	
	:	
	:	FINAL ORDER OF
	:	DISCIPLINE
TO PRACTICE NURSING IN THE STATE	:	
OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Nursing (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Diego Alexander Davis ("Respondent") is a Registered Professional Nurse in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On or about May 17, 2012, Respondent completed and submitted an online biennial renewal for the period of June 1, 2012 to May 31, 2014.

3. Respondent was asked on the biennial renewal application whether Respondent would have "completed the required continuing education credits by May 31, 2012," referring to the biennial renewal period of June 1, 2010 to May 31, 2012. Respondent

answered "Yes" and certified that answer by submitting the online application.

4. Upon receipt of a flagging notice indicating that Respondent was arrested on November 3, 2013 by the Bordentown Police Department for violation of N.J.S.A. 2C:17-3B(2) (Criminal Mischief), the Board sent a letter of inquiry requesting certain information and documents regarding the criminal matter, Respondent's nursing practice, and continuing education to Respondent's address of record in Belle Meade, New Jersey, via regular and certified mail on or about November 08, 2013. The regular mailing was not returned. The United States Postal Service track and confirm system indicates that the certified mailing was returned as unclaimed.

5. On or about May 26, 2014, Respondent completed and submitted an online biennial renewal for the period of June 1, 2014 to May 31, 2016.

6. Respondent was asked on the biennial renewal application whether Respondent would have "completed the required continuing education credits by May 31, 2014," referring to the biennial renewal period of June 1, 2012 to May 31, 2014. Respondent answered "Yes" and certified that answer by submitting the online application.

7. To date, Respondent has not responded to the Board's request for information.

CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's request for information constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2 and 1.3, which the Board deems professional misconduct pursuant to N.J.S.A. 45:1-21(e) and also subjects Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h).

Pursuant to N.J.A.C. 13:37-5.3(b), nurses are required to complete a minimum of thirty (30) hours of continuing education during the preceding biennial period in order to renew their licenses. Pursuant to N.J.A.C. 13:37-5.3(f), nurses are required to maintain documentation of completion of continuing education for a period of four years after completion, and shall submit such documentation to the Board upon request.

By virtue of having failed to respond to the letter of inquiry, Respondent is deemed to have failed to demonstrate, to the satisfaction of the Board, that Respondent completed the continuing education credits required for renewal during the biennial periods of June 1, 2010 to May 31, 2012 and June 1, 2012 to May 31, 2014. The Board therefore finds Respondent in violation of N.J.A.C. 13:37-5.3(b) and 13:37-5.3(f), which in

turn subjects Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h).

Respondent's use of dishonesty and misrepresentation during the license renewal process in falsifying his continuing education information constitutes a violation of N.J.S.A. 45:1-21(b), subjecting Respondent to sanctions.

Respondent's failure to provide the Board with a valid address constitutes a violation of N.J.A.C. 13:37-5.7.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on July 15, 2014, provisionally suspending respondent's nursing license, and imposing a reprimand and a total of \$750 in civil penalties. A copy of the Order was served upon respondent by certified and regular mail at his address of record. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent replied to the Provisional Order, providing an adequate response to the Board's original request for information concerning the 2013 arrest, and documenting belated completion of sufficient nursing continuing education completed to satisfy the 2010-2012 and 2012-2014 continuing education obligation. He was able to provide a total of 25.29 contact hours of continuing education completed during the 2010-2012 licensing cycle, and 20 hours completed during the 2012-2014 licensing cycle. He also sent in documentation of 41.75 contact hours of continuing education completed after May 31, 2014. The Board considered this matter, and determined that suspension was no longer applicable. However, although Mr. Davis claimed that the address of record he provided to the Board was valid, he also claims he did not receive the Board's initial request for information. The record indicates, however, that the mail sent to his address of record was returned, marked "undeliverable as addressed - unable to forward." A second mailing address also appears to lack an apartment number, which prevents mail from being delivered. Moreover Mr. Davis's failure to timely complete continuing education requirements, and his misrepresentation on his 2014 renewal application as to the status of his nursing continuing education, indicated that the reprimand and \$250 civil penalty were warranted, as was the \$500 penalty for Mr.

Davis's initial failure to respond to the Board's request for information, and/or his failure to provide the Board with a valid address of record. The Board therefore determined that the Provisional Order should be made final, without suspension, but imposing the monetary penalties and reprimand.

ACCORDINGLY, IT IS on this 22nd day of December, 2014,

ORDERED that:

1. A reprimand is hereby imposed on Respondent for falsifying the continuing education information on his license renewal application.

2. Respondent is hereby assessed a civil penalty in the amount of seven hundred and fifty dollars (\$750). Said penalty is an aggregate penalty, which includes a penalty in the amount of five hundred dollars (\$500) for failure to cooperate with a Board investigation and a penalty in the amount of two hundred and fifty dollars (\$250) for failing to timely complete required continuing education. Payment shall be made by certified check or money order, payable to the State of New Jersey, delivered to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Payment shall be made no later than 15 days after the entry of this order. In the event Respondent fails to make a timely payment, a certificate of debt

shall be filed in accordance with N.J.S.A 45:1-24 and the Board may bring such other proceedings as authorized by law.

3. Respondent will require an additional four hours of nursing continuing education, with a completion date subsequent to October 22, 2014, in order to satisfy his continuing education obligation for the 2014-2016 licensing cycle.

4. The Board reserves the right to initiate disciplinary proceedings based upon any information that Respondent ultimately provides in response to the letter of inquiry or upon any new information the Board receives.

NEW JERSEY STATE BOARD OF NURSING

By:

 PLD APN

Patricia Murphy, PhD, APN
President